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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,789	06/28/2001	Frank J. Ponzio, Jr.	SYMBOLIC 104	5974
66151 7590 05/31/2007 DAVID PETER KRIVOSHIK, ESQ. 113 WERTSVILLE ROAD RINGOES, NJ 08551-1108			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 05/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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DAVID PETER KRIVOSHIK, ESQ.
113 WERTSVILLE ROAD
RINGOES NJ 08551-1108

MAILED

MAY 31 2007

TECHNOLOGY CENTER 2100

In re Application of:

PONZIO

Application No. 09/894,789

Filed: June 28, 2001

For: **SYSTEM AND METHOD FOR
PROVIDING SIGNALING QUALITY
AND INTEGRITY OF DATA CONTENT**

**DECISION SUA SPONTE
VACATING NOTICE OF
ABANDONMENT**

This is a decision, *sua sponte*, vacating the notice of abandonment sent out on May 2, 2007. The notice of abandonment had an incorrect reply received date of April 10, 2007. From the response filed by Applicant the certificate of mail date was April 4, 2007, not April 10, 2007 as indicated by the examiner. Because Applicant did timely file their response the examiner will consider Applicant's response. Also, the total of extension of time is 3 months, not 6 months as indicated by the examiner.

The examiner has now considered Applicant's amendment in the advisory action included with this decision, indicating the amendment will not be entered and that the request for reconsideration has been considered but does not place the application in condition for allowance. However the application is now abandoned in favor of Applicant's filing of a continuation in part application 11/732,709 filed April 4, 2007. The previous notice of abandonment sent out on May 2, 2007 has been vacated and a new notice of abandonment will be sent out.



John Follansbee

WQAS

571-272-3964

Technology Center 2100

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/894,789	Applicant(s) PONZIO, JR., FRANK J.	
	Examiner Ramy M. Osman	Art Unit 2157	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: n/a.
 Claim(s) objected to: n/a.
 Claim(s) rejected: 71-90.
 Claim(s) withdrawn from consideration: n/a.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.


JASON CARDONE
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments filed on 4/4/2007 have been considered but are deemed to be not persuasive. Applicants amendment/argument contains nothing which may further the prosecution of this application.